



Proposed Regulation Agency Background Document

Agency name	DEPT OF MEDICAL ASSISTANCE SERVICES
Virginia Administrative Code (VAC) citation	112 VAC 30-141
Regulation title	Family Access to Medical Insurance Security Plan (FAMIS): Coverage for pregnant women: FAMIS MOMS
Action title	FAMIS MOMS
Document preparation date	

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This action implements a new program to provide health care coverage to pregnant women with income over the Medicaid limit but less than or equal to 150 percent of the Federal Poverty Level utilizing Title XXI funds.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The *Code of Virginia* (1950) as amended, § 32.1-351, grants to the BMAS the authority to administer and amend the Title XXI Plan (FAMIS). The *Code of Virginia* (1950) as amended, § 32.1-351(K), authorizes the Director of DMAS to “adopt, promulgate and enforce such regulations pursuant to the Administrative Process Act (§ 2.2-400 et. seq.) as may be necessary

for the implementation and administration of the Family Access to Medical Insurance Security Plan.” The 2005 Appropriations Act, Chap. 951, Item 324(L) mandated that DMAS promulgate regulations to “expand medical coverage to pregnant women who are over the age of 19 with annual family income in excess of the Medicaid limit but less than or equal to 150 percent of the Federal Poverty Level.” Section 2102(a)(7) of the federal Social Security Act requires states “to assure the quality and appropriateness of care” in Title XXI SCHIP programs.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The purpose of this action is to implement a program to provide health care coverage to pregnant women with income over the Medicaid limit but less than or equal to 150 percent of the Federal Poverty Level utilizing Title XXI funds.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)

The section of the non-State Plan regulations that is affected by this change is: Family Access to Medical Insurance Security Plan (12 VAC 30-141).

Coverage of pregnant women with income above the Medicaid limit but less than or equal to 150 percent of the Federal Poverty Limit (FPL) represents a new population of individuals to be covered by Virginia’s Title XXI program. Therefore, 12 VAC 30-141-810 to 1660 are new regulations specifically developed to support the FAMIS MOMS program. Because FAMIS MOMS is part of Virginia’s Title XXI program, these regulations are closely modeled after the existing FAMIS regulations (12 VAC 30-141-10 to 660). In many sections the only difference between the new FAMIS MOMS regulations and the existing FAMIS regulations is the name of the program or the reference to a pregnant woman instead of to a child. Some elements in the FAMIS MOMS definition section (12 VAC 30-141-810) reflect additions to, or deletions from, the definitions provided in 12 VAC 30-141-10 (FAMIS Definitions).

Because Medicaid currently covers pregnant women with income less than or equal to 133 percent of the Federal Poverty Level (FPL), the additional pregnant women covered by FAMIS MOMS (133% up to 150% FPL) is expected to be small. Therefore, regulations 12 VAC 30-141-900 D (Eligibility requirements - Income), 12 VAC 30-141-960 (Co-payments), and 12 VAC 30-141-1000 (Benefit package) are modeled after the Medicaid program for pregnant women. This similarity to the much larger Medicaid program is intended to provide access to comprehensive health care services while minimizing confusion and error rates for local

Department of Social Services eligibility workers, medical providers, managed care organizations, and community programs, as they provide services to the small population of women covered by FAMIS MOMS. Certain FAMIS regulations are not being carried over into the FAMIS MOMS regulations because they do not apply to the new program. Specifically, these FAMIS regulations include:

- 12VAC30-141-30 B & C (Duties of the Outreach Oversight Committee)
- 12VAC30-141-100 D(3) (Grandfathered CMSIP children)
- 12VAC30-141-100 G(2a) & (2c) (Four month waiting period)
- 12VAC30-141-110 B (12 months of continuous coverage in FAMIS)
- 12VAC30-141-150 N (Redetermination of eligibility)
- 12VAC30-141-170 (Employer Sponsored Health Insurance)

However, several changes are being made to the mainline FAMIS regulations in order to reflect the impact of the new FAMIS MOMS program: 12 VAC 30-141-10 (Definitions), 12 VAC 30-141-100 (Eligibility requirements), 12 VAC 30-141-120 (Children ineligible for FAMIS), and 12 VAC 30-141-150 (Application requirements). First, a new definition of “Application for health insurance” is added and the definition of “Child health insurance application” is deleted, as the new application form developed and approved by DMAS will be for use by both children and pregnant women applying for coverage. All other references to “Child health insurance application” are being changed to “application for health insurance” (12 VAC 30-141-150 (B), (C), (G), and (J) are amended). Second, 12 VAC 30-141-100(G)(2) is amended to exclude a pregnant child from the required four-month waiting period exclusion from FAMIS since the child was covered by health insurance. This will allow a pregnant child to be enrolled in the FAMIS program and receive appropriate prenatal care instead of either delaying services for up to four months or enrolling in the FAMIS MOMS program with no waiting period, but having coverage end two months following the end of the pregnancy. Third, while access to the State Health Plan for state employees remains a barrier to enrollment in both FAMIS and FAMIS Moms, DMAS has received recent confirmation from CMS that participation in Virginia’s Local Choice Program no longer meets the current federal definition of access to the State Health Plan. Therefore, access to the State Health Plan through the Local Choice program is not included as a condition of eligibility in the FAMIS MOMS program and is also removed from the mainline FAMIS regulations. Elimination of this unnecessary barrier to enrollment is intended to increase program participation and enhance the coordination and coherence between the two programs. These references are found in 12 VAC 30-141-10 (Definitions), 12 VAC 30-141-100 (C)(7) (Eligibility requirements), and 12 VAC 30-141-120 (A)(2) (Children ineligible for FAMIS). Finally, DMAS noted that the Virginia Code reference concerning the judgment rate of interest found in 12 VAC 30-141-180 was incorrect; this reference is corrected in this proposed regulation.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The primary advantage to the Commonwealth of FAMIS MOMS is that this program expands health care services to pregnant women and newborns, increasing the overall health of the citizens of Virginia. By addressing the health care needs of a broader spectrum of pregnant women and newborns, FAMIS MOMS has the potential to identify and respond to medical problems earlier on in pregnancy and during the post-partum period, resulting in both enhanced outcomes for mothers and newborns, as well as potential cost savings in addressing problems earlier rather than later, where there is the potential for more serious and costly medical needs. This regulatory action poses no disadvantages to the public or the Commonwealth.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>The projected cost for 2006 is expected to be \$1,448,754 in state dollars.</p>
<p>Projected cost of the regulation on localities</p>	<p>None</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>These regulations will affect uninsured pregnant women and newborns enrolled in FAMIS MOMS. Health clinics, hospitals and providers will be impacted by these regulations as providers of comprehensive medical care and services to the women and newborns enrolled in FAMIS MOMS.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>The projected numbers of pregnant women affected by these regulations are estimated at 380 in FFY 2005 with an increase of 5% in FFY 2006, 3% in FFY 2007 and then 2% in subsequent years.</p> <p>Most Medicaid providers could provide services to a woman enrolled in FAMIS MOMS because of the comprehensive benefit package provided.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>Pregnant women enrolled in FAMIS MOMS may be required to pay a small co-payment of \$1.00 to \$3.00 for non-pregnancy related services. FAMIS MOMS will cover the cost of all other health care services.</p> <p>Providers will experience a small increase in patient caseloads, but will be reimbursed for all covered services provided to FAMIS MOMS.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

The only alternatives initially considered concerned acceptable income levels for purposes of establishing eligibility, however the General Assembly mandate specified the income ceiling for eligibility, so there was no further discussion on that point.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

No comments were received during the NOIRA public comment period.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

This regulatory action does not have any impact on the institution of the family and family stability including strengthening or eroding the authority and rights of parents in the education, nurturing, and supervision of their children; encouraging or discouraging economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents, strengthening or eroding the marital commitment; nor increasing or decreasing disposable family income.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

Changes from the Emergency regulation to the Proposed Regulation are in bold.

Also, please note that additional changes are being made to the FAMIS regulations in a companion proposed regulation concerning the private health insurance premium assistance program, FAMIS Select. In addition, the prior authorization requirements described in 12VAC 30-141-500 (FAMIS benefits reimbursement) are currently being amended by a separate Fast-Track regulatory package.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
12 VAC 30-141-10		Definitions	Adds a definition for “Application for health insurance.” The definition for “Child health insurance application” is deleted, and the eligibility limitation on Local Choice employees is removed.
12 VAC 30-141-100		Eligibility requirements	Amended to exclude a pregnant child from the required four-month waiting period found in FAMIS and the eligibility limitation on Local Choice employees is removed.
12 VAC 30-141-120		Children ineligible for FAMIS	Removes State Health Plan coverage from Local Choice limitation.
12 VAC 30-14-150		Application requirements Reference to “internet”	Changes references from “Child health insurance applications” to “ an application for health insurance ” Reference is changed to “Internet” In the proposed version of subsection (B), the new reference to Internet applications was relocated from the second sentence of (B) to the third sentence of (B), for clarity. Also, in subsection C, the sentence “An individual who is 18 years of age shall not be refused the right to complete a-child health insurance application for himself” is changed to “An individual who is 18 years of age shall not be refused the right to complete a-child <u>an application for health insurance application for himself</u>”
12 VAC 30-141-180		Liability for excess benefits	Corrects reference to judgment rate of interest from § 6.1-330.49 to § 6.1-330.54
	12 VAC30-141-810	N/A	Adds FAMIS MOMS Definitions section.
	12 VAC30-141-820	N/A	Adds Administration and general background section.
	12 VAC30-141-830	N/A	Adds Outreach and public participation section.
	12 VAC30-141-840	N/A	Adds Review of adverse actions section.
	12 VAC30-141-850	N/A	Adds Notice of adverse actions section.

	12 VAC30-141-860	N/A	Adds Request for review section.
	12 VAC30-141-870	N/A	Adds review procedures section. In subsection (D)(8), the reference to “fee-for-service and PCCM” is changed to “fee-for-service or PCCM”
	12 VAC30-141-900	N/A	Adds Eligibility requirements section. In the proposed version of section (C)(1), the words “DMAS FAMIS CPU” are replaced with the words “DMAS eligibility staff” for clarity. Plural references in (C)(3) & (4) are changed to singular, and in (G)(2)(b), first sentence, “nor” is changed to “or.”
	12 VAC30-141-910	N/A	Adds Duration of eligibility section.
	12 VAC30-141-920	N/A	Adds Pregnant women ineligible for FAMIS MOMS section.
	12 VAC30-141-930	N/A	Adds Nondiscriminatory provisions section.
	12 VAC30-141-940	N/A	Adds No entitlement notice section.
	12 VAC30-141-950	N/A	Adds application requirements section.
	12 VAC30-141-960	N/A	Adds Co-payments section.
	12 VAC30-141-980	N/A	Adds Liability for excess benefits section.
	12 VAC30-141-1000	N/A	Adds Benefit packages section.
	12 VAC30-141-1500	N/A	Adds Benefits reimbursement section.
	12 VAC30-141-1560	N/A	Adds Quality Assurance section.
	12 VAC30-141-1570	N/A	Adds Utilization control section.
	12 VAC30-141-1600	N/A	Adds Recipient audit unit section.
	12 VAC30-141-1650	N/A	Adds Provider review section.
	12 VAC30-141-1660	N/A	Adds Assignment to managed care section. In subsection A, reference to “Title XXI benefits” is changed to “Medicaid-like benefits.”